

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION

LEOPOLD WITHMORE-VANS ALLEN, JR.,	)	
	)	Petitioner,
	)	
	)	No. 1:20-cv-7
-v-	)	
	)	
SHERRY L. BURT,	)	Honorable Paul L. Maloney
	)	
	)	
	)	

---

**ORDER ADOPTING REPORT AND RECOMMENDATION AND DENYING §  
2254 PETITION FOR HABEAS RELIEF**

Petitioner Allen filed a claim for habeas relief under 28 U.S.C. § 2254. Petitioner challenges his criminal conviction in the Michigan Courts. The Magistrate Judge issued a report recommending the Court deny the claim for relief. (ECF No. 14.) The Magistrate Judge also recommends denying Petitioner's motion to stay (to raise new evidence in trial court). (ECF No. 13.) Petitioner filed objections. (ECF No. 16.) The Court will adopt the report and recommendation.

After being served with a report and recommendation (R&R) issued by a magistrate judge, a party has fourteen days to file written objections to the proposed findings and recommendations. 28 U.S.C. § 636(b)(1); Fed. R. Civ. P. 72(b)(2). A district court judge reviews de novo the portions of the R&R to which objections have been filed. 28 U.S.C. § 636(b)(1); Fed. R. Civ. P. 72(b)(3). Only those objections that are specific are entitled to a de novo review under the statute. *Mira v. Marshall*, 806 F.2d 636, 637 (6th Cir. 1986) (per curiam). "[A]n objection that does nothing more than state a disagreement with the magistrate's suggested resolution, or simply summarizes what has been presented before, is

not an 'objection' as that term is used in the context of Federal Rule of Civil Procedure 72."

*Brown v. City of Grand Rapids, Michigan*, No. 16-2433, 2017 WL 4712064, at \*2 (6th Cir. June 16, 2017) (unpublished order).

The Magistrate Judge succinctly and accurately summarizes the procedural and substantive history of Petitioner's conviction, appeal and his efforts in this Court. The Magistrate Judge also correctly applied the law to the facts as found in the record.

Fairly characterized, Petitioner's objections are simply statements that he disagrees with the conclusions and recommendations of the Magistrate Judge. Petitioner's objections are sufficiently specific. The objections do not, however, provide any coherent basis for the Court to find an error of fact or law in the R&R. Concerning the motion to stay, Petitioner concedes (PageID.733) that he did not timely file the affidavit required by the Magistrate Judge's July 20, 2020, order (ECF No. 10). Petitioner's explanation (ECF No. 17), that he was relying on jailhouse lawyers and did not know that he was supposed to file any affidavit, does not provide a sufficient basis for this Court to ignore the requirement and the warning contained in the Magistrate Judge's order.

Accordingly, the Court **ADOPTS**, as its Opinion, the Report and Recommendation. (ECF No. 14.) The Court **DENIES** Petitioner's motion to stay (to raise new evidence in the trial court). (ECF No. 13.) The Court also **DENIES** the petition for habeas relief. As recommended in the R&R, the Court **DENIES** a certificate of appealability and also finds that any appeal would not be taken in good faith. **IT IS SO ORDERED.**

Date: January 21, 2021

/s/ Paul L. Maloney  
Paul L. Maloney  
United States District Judge